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9 Attorneys for Plaintiff

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 LEE-RAY TARANTINO CO., INC., d/b/a
14 GOLDEN STATE PRODUCE CO.

15 Plaintiff

16 v.

17 THEODORAS KOLIATSI, d/b/a/
18 4TH & GEARY FARMERS MARKET, et al

19 Defendants

Civil Action No: C-07-5705 CW

20
21 STIPULATION AND ORDER

22 Plaintiff, Lee-Ray Tarantino Co., Inc., d/b/a Golden State Produce Co., by and
23 through its undersigned attorneys, and Defendants, Theodoras Koliatsis, d/b/a 4th &
24 Geary Farmers Market and Yannoula Koliatsis, d/b/a 4th & Geary Farmers Market, hereby
25 stipulate and agree to the terms of this Stipulation and Order, and the Court hereby
26 approves this Stipulation and enters the Order thereon.

27 1. Plaintiff, Lee-Ray Tarantino Co., Inc., d/b/a Golden State Produce, is a
28 trust creditor under the provisions of the Perishable Agricultural Commodities Act, 7

1 U.S.C. §499e(c), against defendants, Theodoras Kollatsis, d/b/a 4th & Geary Farmers
2 Market and Yannoula Kollatsis, d/b/a 4th & Geary Farmers Market, jointly and severally, on
3 a debt in the principal amount of \$328,344.36 plus contractual interest at the rate of
4 18% per annum or \$85,431.21 for the installment period set forth in paragraph 2 below,
5 and attorneys fees in the amount of \$9,325.00, for a total amount of \$423,100.57.
6

7 2. Defendants Theodoras Kollatsis, d/b/a 4th & Geary Farmers Market and
8 Yannoula Kollatsis, d/b/a 4th & Geary Farmers Market, shall pay to plaintiff Lee-Ray
9 Tarantino Co., Inc., d/b/a Golden State Produce the total amount due of \$423,100.57,
10 as follows: \$30,000.00 on or before November 26, 2007; and the balance in separate,
11 equal, weekly installments of \$2,500.00 commencing Monday, December 3, 2007, and
12 continuing each Monday thereafter until the total amount due plaintiff is paid in full. All
13 payments shall be by electronic fund transfer, certified check, cashiers check, or money
14 order, payable to Lee-Ray Tarantino Co., Inc., d/b/a Golden State Produce, and
15 delivered to Lee-Ray Tarantino Co., Inc., d/b/a Golden State Produce, P.O. Box 2408,
16 Golden State Produce Terminal, 131 Terminal Market, South San Francisco, California
17 94083 on or by the date payment is due. Defendants have the right of prepayment.
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19 3. To secure the payment of said amount, defendants, Theodoras Kollatsis,
20 d/b/a 4th & Geary Farmers Market and Yannoula Kollatsis, d/b/a 4th & Geary Farmers
21 Market, have executed a Joint Motion for Entry of Final Injunction Order and Judgment,
22 which will be held in escrow by the attorneys for Plaintiff unless there is a default. (An
23 unexecuted copy of the Joint Motion for Entry of Final Injunction Order and Judgment
24 and Proposed Final Injunction Order and Judgment are attached.) Plaintiff shall provide
25 defendants with notice of default, and defendants shall have two (2) business days to
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1 cure any and all defaults, before filing the Joint Motion for Entry of Final Injunction Order
2 and Judgment.

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4 4. If there is a default in the payment of any of the payments referenced in
5 paragraph 2, the aforesaid principal sum above mentioned in paragraphs 1 above, or
6 any balance that may appear to be unpaid thereon, together accrued interest, all costs
7 and reasonable attorney's fees approved by the court to collect the remaining sums due
8 (including those incurred to determine additional costs and fees) (hereafter "the Debt"),
9 shall after the two business day cure period reference above, at the option of the
10 Plaintiff, thereupon become immediately due and payable, and Plaintiff, upon the filing
11 of an affidavit stating the amount of unpaid principal and accrued but unpaid interest as
12 to such default by Plaintiff's attorney with the Court with a copy thereof to Defendants,
13 shall be entitled to file the previously executed Joint Motion for Entry of Final Injunction
14 Order and Judgment and obtain a Judgment against defendants, Theodoras Koliatsis,
15 d/b/a 4th & Geary Farmers Market and Yannoula Koliatsis, d/b/a 4th & Geary Farmers
16 Market, under the trust provisions of the Perishable Agricultural Commodities Act, 7
17 U.S.C. §499e(c), for the full unpaid amount of the Debt.

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21 5. Nothing herein, including the installment nature of the payments being
22 made hereunder, shall be deemed, interpreted or otherwise construed as an extension
23 of credit by the Plaintiff to Defendants, or as a waiver of the Plaintiff's rights under the
24 statutory trust provision of the Perishable Agricultural Commodities Act ("PACA"), 7
25 U.S.C. §499e(c). Plaintiff's rights under this Stipulation and Order are in addition to its
26 rights under said trust provision.
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6. The Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not Issue entered by this Court on November 9, 2007 is dissolved upon entry of this Stipulation and Order.

7. The Court shall retain jurisdiction over the parties during the pendency of the application of this Order.

8. Upon full payment, including by prepayment, this action shall be dismissed with prejudice.

Dated this 26th day of November, 2007

DUDNICK, DETWILER, RIMIN & STIKKER, LLP

Theodoras Koliatsis
THEODORAS KOLIATSI, d/b/a
4TH & GEARY FARMERS MARKET

By: William C. Wilka
William C. Wilka (CA Bar No. 79667)
351 California Street, 15th Floor
San Francisco, California 94104
(415) 982-1400

And

Yannoula Koliatsis
YANNOULA KOLIATSI, d/b/a
4TH & GEARY FARMERS MARKET

McCARRON & DIESS
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4900 Massachusetts Ave., N.W.
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(202) 364-0400
Attorneys for Plaintiff

EXHIBIT A

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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEE-RAY TARANTINO CO., INC., d/b/a
 GOLDEN STATE PRODUCE CO.

Plaintiff

v.

THEODORAS KOLIATSISS, d/b/a/
 4TH & GEARY FARMERS MARKET, et al

Defendants

Civil Action No: C-07-5705 CW

**JOINT MOTION FOR
 ENTRY OF FINAL
 INJUNCTION AND
 JUDGMENT**

Plaintiff, Lee-Ray Tarantino Co., Inc., d/b/a Golden State Produce Co., by and
 through its undersigned attorneys, and Defendants, Theodoras Koliatsis, d/b/a 4th &
 Geary Farmers Market and Yannoula Koliatsis, d/b/a 4th & Geary Farmers Market, hereby
 jointly move the Court to enter a Final Injunction Order and Judgment against
 Defendants in the form attached hereto.

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2 Dated this _____ day of November, 2007

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4 DUDNICK, DETWILER, RIVIN & STIKKER, LLP

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6
7 THEODORAS KOLIATSI, d/b/a
8 4TH & GEARY FARMERS MARKET

By: _____
William C. Wilka (CA Bar No. 79667)
351 California Street, 15th Floor
San Francisco, California 94104
(415) 982-1400

9
10 And

11
12 YANNOULA KOLIATSI, d/b/a
13 4TH & GEARY FARMERS MARKET

McCARRON & DIESS
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Attorneys for Plaintiff

EXHIBIT B

William C. Wilka (CA Bar No. 79667)
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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEE-RAY TARANTINO CO., INC., d/b/a
 GOLDEN STATE PRODUCE CO.

Plaintiff

v.

THEODORAS KOLIATSI, d/b/a/
 4TH & GEARY FARMERS MARKET, et al

Defendants

Civil Action No: C-07-5705 CW

**FINAL INJUNCTION
 ORDER AND JUDGMENT**

This matter is before the Court upon an affidavit filed by plaintiff's attorney that defendants have failed to make payment in accord with the Stipulation and Order filed in this action. Pursuant to the terms of the Stipulation and Order previously filed with the court, this court is to enter this Final Injunction Order and Judgment upon the filing of an affidavit by plaintiff's attorney, which states that payment has not been made by defendants as required by the Order.

1 Based upon the filing of the affidavit previously noted, it is by the United States
2 District Court for the Northern District of California,

3 **ORDERED, ADJUDGED AND DECREED** that judgment is entered in favor of
4 plaintiff, Lee-Ray Tarantino Co., Inc., d/b/a Golden State Produce Co., by and through
5 its undersigned attorneys, and Defendants, Theodoras Koliatsis, d/b/a 4th & Geary
6 Farmers Market and Yannoula Koliatsis, d/b/a 4th & Geary Farmers Market, jointly
7 severally, under the trust provisions of the Perishable Agricultural Commodities Act, 7
8 U.S.C. §499e(c) (PACA), in the amount of \$_____, accrued interest in the sum of
9 \$_____, plus additional attorney's fees as awarded by the Court upon
10 application by plaintiff, for a total judgment amount of \$_____; and it is further,

11 **ORDERED** that plaintiff's motion for Final Injunction is **GRANTED**; and it is further,

12 **ORDERED** that defendants, their customers, agents, officers, subsidiaries, assigns,
13 banking institutions and factors shall not alienate, dissipate, pay over or assign any PACA
14 trust assets of Defendants, Theodoras Koliatsis, d/b/a 4th & Geary Farmers Market and
15 Yannoula Koliatsis, d/b/a 4th & Geary Farmers Market, except for payment to plaintiff until
16 further order of the Court or until defendants pay the balance owed under the previously
17 entered Order and Judgment by cashier's check or certified check at which time this Order
18 is dissolved; and it is further

19 **ORDERED** that defendants shall within five (5) business days of service of this
20 Order, turnover any and all funds realized from the sale of produce or products derived
21 from produce in their possession to Lee-Ray Tarantino Co., Inc., d/b/a Golden State
22 Produce, P.O. Box 2408, Golden State Produce Terminal, 131 Terminal Market, South
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1 San Francisco, California 94083, attorneys for plaintiff for distribution to plaintiff until the
2 balance owed is paid to plaintiff; and it is further

3 **ORDERED** that any and all PACA trust assets belonging to defendants in the
4 possession of third parties shall be immediately turned over to Lee-Ray Tarantino Co.,
5 Inc., d/b/a Golden State Produce, P.O. Box 2408, Golden State Produce Terminal, 131
6 Terminal Market, South San Francisco, California 94083, attorneys for plaintiff, for
7 distribution to plaintiff until the balance owed is paid to plaintiff; and it is further
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9 **ORDERED** that any and all funds owed to defendants for produce or produce
10 related items, shall be paid directly to Lee-Ray Tarantino Co., Inc., d/b/a Golden State
11 Produce, P.O. Box 2408, Golden State Produce Terminal, 131 Terminal Market, South
12 San Francisco, California 94083, attorneys for plaintiff, when due for distribution to plaintiff
13 until the balance owed is paid to plaintiff; and it is further
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15 **ORDERED** that defendants shall supply to plaintiff's attorney, within five (5) days of
16 the date of this Order, any and all documents in connection with the assets and liabilities of
17 defendants, Theodoras Koliatsis, d/b/a 4th & Geary Farmers Market and Yannoula
18 Koliatsis, d/b/a 4th & Geary Farmers Market, and its related and subsidiary companies,
19 including, but not limited to, the most recent balance sheets, profit/loss statements,
20 accounts receivable reports, accounts payable reports, accounts paid records and income
21 tax returns.
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United States District Judge
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